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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,132	08/08/2001	Wayne A. Himes		3045

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Wayne A. Himes
229 Southwest Rd
Canterbury, NH 03224

EXAMINER
CONLEY, SEAN E

ART UNIT	PAPER NUMBER
1744	4

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/924,132

Applicant(s)

HIMES, WAYNE A.

Examiner

Sean E Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2001 and 15 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 and 11 is/are allowed.
- 6) ☒ Claim(s) 1, 4-6 and 9 is/are rejected.
- 7) ☒ Claim(s) 2-3, 7-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claims 4 and 6, the phrase "wire-like mesh" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "wire-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (Patent Application Publication 2003/0015513) in view of Ricci (U.S. Pat. 4,854,501).

Ellis discloses a warming, scenting and music playing cabinet for baby clothing and towels. The multi-functional cabinet comprises a container means (10) having a top and bottom, and at least four sides cooperating to define an inner space (18). The inner space (18) includes at least one storage for receiving articles of clothing (12) to be conditioned. The articles of clothing are supported by a floor panel (22) which is located above the bottom and forms at least one compartment below the floor. The inner space further includes at least one compartment means located adjacent to the upper most area for temporary placement of a fragrance such as baby powder or baby oil. The compartment means is defined by a sidewall pocket (20) having panels serving to separate the compartment means from the clothing storage area. The sidewall pocket

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(20) is suitable for adding a fragrance provider and further provides an unforced circulation of scent-laden air to the clothing article storage area. Additionally, the container includes a lid member (14) for opening and closing the container (see figure 2 and paragraphs [0034]-[0038]). However, Ellis fails to teach or disclose a natural scent source material.

Ricci discloses a fragrance sack for selectively scenting the surrounding area. The sack includes a scenting element formed of an absorbent material that is impregnated with a scented oil. The fragrance sack may be placed on a shelf as shown in figure 4 to add pleasant scent to items of clothing stored in a closet, or in a drawer as depicted in figure 5. Additionally, Ricci discloses that it is well known to make fragrance sacks that include a scent carrying material such as rose petals or dried herbs which emit a characteristic smell (see column 1, lines 30-40).

Therefore, it would have been obvious to one of ordinary level of skill in the art at the time the invention was made to modify the invention of Ellis and replace the fragrance means (baby powder or baby oil) with an alternative natural fragrance material such as rose petals or dried herbs as taught by the disclosure of Ricci since both inventions are directed to conditioning articles of clothing in confined spaces.

Allowable Subject Matter

7. Claims 10 and 11 are allowed.

8. The following is an examiner's statement of reasons for allowance: The closest prior art to the applicant's claimed invention are the references to Ellis and Knight (U.S. Pat. 5,776,378).

The prior art fails to teach or suggest the device for conditioning articles of clothing as presented in claim 10 and also fails to teach or suggest the method of conditioning articles of hunter's clothing and gear as presented in claim 11.

Ellis discloses a warming, scenting and music playing cabinet for baby clothing and towels. The multi-functional cabinet comprises a container means (10) having a top and bottom, and at least four sides cooperating to define an inner space (18). The inner space (18) includes at least one storage for receiving articles of clothing (12) to be conditioned. The articles of clothing are supported by a floor panel (22) which is located above the bottom and forms at least one compartment below the floor. The inner space further includes at least one compartment means located adjacent to the upper most area for temporary placement of a fragrance such as baby powder or baby oil. The compartment means is defined by a sidewall pocket (20) having panels serving to separate the compartment means from the clothing storage area. The sidewall pocket (20) is suitable for adding a fragrance provider and further provides an unforced circulation of scent-laden air to the clothing article storage area. Additionally, the container includes a lid member (14) for opening and closing the container (see figure 2 and paragraphs [0034]-[0038]). However, Ellis fails to teach or disclose a natural scent source material and a compartment above and below the clothing articles with each

containing a natural scent-source material. Furthermore, Ellis does not teach a method of conditioning articles of hunters clothing and gear.

Knight teaches a method and apparatus for applying scent to clothing. The device includes an enclosed compartment having a top, bottom and side walls. A horizontal perforated shelf extends across the compartment and divides the compartment into upper and lower portions. An air circulation conduit connects upper and lower portions of the compartment. A fan is connected to the conduit for moving air from the upper portion to the lower portion and a scent cartridge is in communication with the conduit. The air passing through will pick up the scent passing it to the lower portion and then through the perforated shelf supporting the clothing. However, this reference fails to teach unforced circulation of scent-laden air and also fails to teach a compartment above and below the clothing articles with each containing a natural scent-source material.

The prior art, alone or in combination, fails to teach or suggest the applicant's claimed invention as presented in claims 10 and 11.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Claims 4 and 6-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or disclose a panel comprising passages formed of a frame structure to which a wire mesh is attached wherein the panel fits within the lid and is positioned adjacent to the lid to form a compartment that contains natural scent-source materials thereby separating the materials from the articles of clothing.

10. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or suggest a device with a clothing article support panel comprising passages and positioned adjacent to the bottom-most area, but spaced from the bottom to define a compartment where natural scent-source materials are contained.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. 5,592,750 to Eichten

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Conley, whose telephone number is (703) 305-2430. The examiner can normally be reached on Monday-Friday 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Warden, can be reached at (703) 308-2920. The Unofficial fax phone number for this group is (703) 305-7719. The Official fax phone number for this Group is (703) 872-9310.

When filing a FAX in Technology Center 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite the processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [robert.warden@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist, whose telephone number is (703) 308-0661.

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SEC

Ac

July 10, 2003

Terrence R. Till
Terrence R. Till
Primary Examiner